

1 AN ACT concerning disabled persons.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the  
5 Disabilities Services Act of 2003.

6 Section 5. Purpose. It is the purpose of this Act to  
7 create an advisory committee to develop and implement a  
8 disabilities services implementation plan as provided in  
9 Section 20 to ensure compliance by the State of Illinois with  
10 the Americans with Disabilities Act and the decision in  
11 *Olmstead v. L.C.*, 119 S.Ct. 2176 (1999).

12 Section 10. Application of Act; definitions.

13 (a) This Act applies to persons with disabilities. The  
14 disabilities included are defined for purposes of this Act as  
15 follows:

16 "Disability" means a disability as defined by the  
17 Americans with Disabilities Act of 1990 that is attributable  
18 to a developmental disability, a mental illness, or a  
19 physical disability, or combination of those.

20 "Developmental disability" means a disability that is  
21 attributable to mental retardation or a related condition. A  
22 related condition must meet all of the following conditions:

23 (1) It must be attributable to cerebral palsy,  
24 epilepsy, or autism, or any other condition (other than  
25 mental illness) found to be closely related to mental  
26 retardation because that condition results in impairment  
27 of general intellectual functioning or adaptive behavior  
28 similar to that of individuals with mental retardation,  
29 and requires treatment or services similar to those  
30 required for those individuals.

1           (2) It must be manifested before the individual  
2 reaches age 22.

3           (3) It must be likely to continue indefinitely.

4           (4) It must result in substantial functional  
5 limitations in 3 or more of the following areas of major  
6 life activity: self-care, language, learning, mobility,  
7 self-direction, and capacity for independent living.

8           "Mental illness" means a mental or emotional disorder  
9 verified by a diagnosis contained in the Diagnostic and  
10 Statistical Manual of Mental Disorders-Fourth Edition,  
11 published by the American Psychiatric Association (DSM-IV) or  
12 International Classification of Diseases, 9th Revision,  
13 Clinical Modification (ICD-9-CM) that substantially impairs a  
14 person's cognitive, emotional, or behavioral functioning, or  
15 any combination of those, excluding (i) conditions that may  
16 be the focus of clinical attention but are not of sufficient  
17 duration or severity to be categorized as a mental illness,  
18 such as parent-child relational problems, partner-relational  
19 problems, sexual abuse of a child, bereavement, academic  
20 problems, phase-of-life problems, and occupational problems  
21 (collectively, "V codes"), (ii) organic disorders such as  
22 substance intoxication dementia, substance withdrawal  
23 dementia, Alzheimer's disease, vascular dementia, dementia  
24 due to HIV infection, and dementia due to Creutzfeld-Jakob  
25 disease and disorders associated with known or unknown  
26 physical conditions such as hallucinosis, amnesic disorders  
27 and delirium, and psychoactive substance-induced organic  
28 disorders, and (iii) mental retardation or psychoactive  
29 substance use disorders.

30           "Mental retardation" means significantly sub-average  
31 general intellectual functioning existing concurrently with  
32 deficits in adaptive behavior and manifested before the age  
33 of 22 years.

34           "Physical disability" means a disability as defined by

1 the Americans with Disabilities Act of 1990 that meets the  
2 following criteria:

3 (1) It is attributable to a physical impairment.

4 (2) It results in a substantial functional  
5 limitation in 3 or more of the following areas of major  
6 life activity: (i) self-care, (ii) receptive and  
7 expressive language, (iii) learning, (iv) mobility, (v)  
8 self-direction, (vi) capacity for independent living, and  
9 (vii) economic sufficiency.

10 (3) It reflects the person's need for a combination  
11 and sequence of special, interdisciplinary, or general  
12 care, treatment, or other services that are of lifelong  
13 or of extended duration and must be individually planned  
14 and coordinated.

15 (b) In this Act:

16 "Chronological age-appropriate services" means services,  
17 activities, and strategies for persons with disabilities that  
18 are representative of the lifestyle activities of nondisabled  
19 peers of similar age in the community.

20 "Comprehensive evaluation" means procedures used by  
21 qualified professionals selectively with an individual to  
22 determine whether a person has a disability and the nature  
23 and extent of the services that the person with a disability  
24 needs.

25 "Department" means the Department on Aging, the  
26 Department of Human Services, the Department of Public  
27 Health, the Department of Public Aid, the University of  
28 Illinois Division of Specialized Care for Children, the  
29 Department of Children and Family Services, and the Illinois  
30 State Board of Education, where appropriate, as designated in  
31 the implementation plan developed under Section 20.

32 "Family" means a natural, adoptive, or foster parent or  
33 parents or other person or persons responsible for the care  
34 of an individual with a disability in a family setting.

1 "Family or individual support" means those resources and  
2 services that are necessary to maintain an individual with a  
3 disability within the family home or his or her own home.  
4 These services may include, but are not limited to, cash  
5 subsidy, respite care, and counseling services.

6 "Independent service coordination" means a social service  
7 that enables persons with disabilities and their families to  
8 locate, use, and coordinate resources and opportunities in  
9 their communities on the basis of individual need.  
10 Independent service coordination is independent of providers  
11 of services and funding sources and is designed to ensure  
12 accessibility, continuity of care, and accountability and to  
13 maximize the potential of persons with disabilities for  
14 independence, productivity, and integration into the  
15 community. Independent service coordination includes, at a  
16 minimum: (i) outreach to identify eligible individuals; (ii)  
17 assessment and periodic reassessment to determine each  
18 individual's strengths, functional limitations, and need for  
19 specific services; (iii) participation in the development of  
20 a comprehensive individual service or treatment plan; (iv)  
21 referral to and linkage with needed services and supports;  
22 (v) monitoring to ensure the delivery of appropriate services  
23 and to determine individual progress in meeting goals and  
24 objectives; and (vi) advocacy to assist the person in  
25 obtaining all services for which he or she is eligible or  
26 entitled.

27 "Individual service or treatment plan" means a recorded  
28 assessment of the needs of a person with a disability, a  
29 description of the services recommended, the goals of each  
30 type of element of service, an anticipated timetable for the  
31 accomplishment of the goals, and a designation of the  
32 qualified professionals responsible for the implementation of  
33 the plan.

34 "Least restrictive environment" means an environment that

1 represents the least departure from the normal patterns of  
2 living and that effectively meets the needs of the person  
3 receiving the service.

4 Section 15. Services. Services shall be provided in  
5 accordance with the individual service or treatment plan  
6 developed for an individual under this Section. The  
7 individual shall initially be screened for potential  
8 eligibility by the appropriate State agency and, if the  
9 individual is deemed probably eligible for a disability  
10 service or program, a comprehensive evaluation of the  
11 individual shall be conducted to determine the services and  
12 programs appropriate for that individual. The array of  
13 available services shall be described in the Disabilities  
14 Services Implementation Plan required under this Act and  
15 shall include, but need not be limited to:

16 (1) Comprehensive evaluation and diagnosis. A  
17 person with a suspected disability who is applying for  
18 Department-authorized disability services must receive,  
19 after an initial screening and a determination of  
20 probable eligibility for a disability service or program,  
21 a comprehensive diagnosis and evaluation, including an  
22 assessment of skills, abilities, and potential for  
23 residential and work placement, adapted to his or her  
24 primary language, cultural background, and ethnic origin.  
25 All components of a comprehensive evaluation must be  
26 administered by a qualified examiner.

27 (2) Individual service or treatment plan. A person  
28 with a disability shall receive services in accordance  
29 with a current individual service or treatment plan. A  
30 person with a disability who is receiving services shall  
31 be provided periodic reevaluation and review of the  
32 individual service or treatment plan, at least annually,  
33 in order to measure progress, to modify or change

1 objectives if necessary, and to provide guidance and  
2 remediation techniques.

3 A person with a disability and his or her guardian  
4 have the right to participate in the planning and  
5 decision-making process regarding the person's individual  
6 service or treatment plan and to be informed in writing,  
7 or in that person's mode of communication, of progress at  
8 reasonable time intervals. Each person must be given the  
9 opportunity to make decisions and exercise options  
10 regarding the plan, consistent with the person's  
11 capabilities. Family members and other representatives of  
12 the person with a disability must be allowed, encouraged,  
13 and supported to participate as well, if the person with  
14 a disability consents to that participation.

15 (3) Nondiscriminatory access to services. A person  
16 with a disability may not be denied program services  
17 because of sex, ethnic origin, marital status, ability to  
18 pay (except where contrary to law), or criminal record.  
19 Specific program eligibility requirements with regard to  
20 disability, level of need, age, and other matters may be  
21 established by the Department by rule. The Department  
22 may set priorities for the provision of services and for  
23 determining the need and eligibility for services in  
24 accordance with available funding.

25 (4) Family or individual support. A person with a  
26 disability must be provided family or individual support  
27 services, or both, whenever possible and appropriate, to  
28 prevent unnecessary out-of-home placement and to foster  
29 independent living skills when authorized for such  
30 services.

31 (5) Residential choices and options. A person with  
32 a disability who requires residential placement in a  
33 supervised or supported setting must be provided choices  
34 among various residential options when authorized for

1 those services. The placement must be offered in the  
2 least restrictive environment appropriate to the  
3 individual.

4 (6) Education. A person with a disability has the  
5 right to a free, appropriate public education as provided  
6 in both State and federal law. Each local educational  
7 agency must prepare persons with disabilities for adult  
8 living. In anticipation of adulthood, each person with a  
9 disability has the right to a transition plan developed  
10 and ready for implementation before the person's exit by  
11 no later than the school year in which the person reaches  
12 age 14, consistent with the requirements of the federal  
13 Individuals with Disabilities Education Act and Article  
14 XIV of the School Code.

15 (7) Vocational training. A person with a  
16 disability must be provided vocational training, when  
17 appropriate, that contributes to the person's  
18 independence and employment potential. This training  
19 should include strategies and activities in programs that  
20 lead to employment and reemployment in the least  
21 restrictive environment appropriate to the individual.

22 (8) Employment. A person with a disability has the  
23 right to be employed free from discrimination, pursuant  
24 to the Constitution and laws of this State.

25 (9) Independent service coordination. A person with  
26 a disability who is receiving direct services from the  
27 Department must be provided independent service  
28 coordination when needed.

29 (10) Due process. A person with a disability  
30 retains the rights of citizenship. Any person aggrieved  
31 by a decision of a department regarding services  
32 provided under this Act must be given an opportunity to  
33 present complaints at a due process hearing before an  
34 impartial hearing officer designated by the director of

1 that department. Any person aggrieved by a final  
2 administrative decision rendered following the due  
3 process hearing may seek judicial review of that decision  
4 pursuant to the Administrative Review Law. The term  
5 "administrative decision" is defined as in Section 3-101  
6 of the Code of Civil Procedure. Attorney's fees and costs  
7 may be awarded to a prevailing complainant in any due  
8 process hearing or action for judicial review under this  
9 Act.

10 The right to a hearing under this item (10) is in  
11 addition to any other rights under federal, State, or  
12 local laws, however nothing in this Section shall be  
13 construed as requiring the establishment of a new due  
14 process hearing procedure if one already exists for a  
15 particular service or program.

16 Section 20. Implementation.

17 (a) The Governor shall appoint an advisory committee to  
18 assist in the development and implementation of a  
19 Disabilities Services Implementation Plan that will ensure  
20 compliance by the State of Illinois with the Americans with  
21 Disabilities Act and the decision in *Olmstead v. L.C.*, 119  
22 S.Ct. 2176 (1999). The advisory committee shall be known as  
23 the Illinois Disabilities Services Advisory Committee and  
24 shall be composed of no more than 33 members, including:  
25 persons who have a physical disability, a developmental  
26 disability, or a mental illness; senior citizens; advocates  
27 for persons with physical disabilities; advocates for  
28 persons with developmental disabilities; advocates for  
29 persons with mental illness; advocates for senior citizens;  
30 representatives of providers of services to persons with  
31 physical disabilities, developmental disabilities, and mental  
32 illness; representatives of providers of services to senior  
33 citizens; and representatives of organized labor.

1           In addition, the following State officials shall serve on  
2 the committee as ex-officio non-voting members: the Secretary  
3 of Human Services or his or her designee; the State  
4 Superintendent of Education or his or her designee; the  
5 Director of Aging or his or her designee; the Executive  
6 Director of the Illinois Housing Development Authority or his  
7 or her designee; the Director of Public Aid or his or her  
8 designee; and the Director of Employment Security or his or  
9 her designee.

10           The advisory committee shall select officers, including a  
11 chair and a vice-chair.

12           The advisory committee shall meet at least quarterly and  
13 shall keep official meeting minutes. Committee members shall  
14 not be compensated but shall be paid for their expenses  
15 related to attendance at meetings.

16           (b) The implementation plan must include, but need not  
17 be limited to, the following:

18                 (1) Establishing procedures for completing  
19 comprehensive evaluations, including provisions for  
20 Department review and approval of need determinations.  
21 The Department may utilize independent evaluators and  
22 targeted or sample reviews during this review and  
23 approval process, as it deems appropriate.

24                 (2) Establishing procedures for the development of  
25 an individual service or treatment plan for each person  
26 with a disability, including provisions for Department  
27 review and authorization.

28                 (3) Identifying core services to be provided by  
29 agencies of the State of Illinois or other agencies.

30                 (4) Establishing minimum standards for  
31 individualized services.

32                 (5) Establishing minimum standards for residential  
33 services in the least restrictive environment.

34                 (6) Establishing minimum standards for vocational

1 services.

2 (7) Establishing due process hearing procedures.

3 (8) Establishing minimum standards for family  
4 support services.

5 (9) Securing financial resources necessary to  
6 fulfill the purposes and requirements of this Act,  
7 including but not limited to obtaining approval and  
8 implementing waivers or demonstrations authorized under  
9 federal law.

10 (c) The Governor, with the assistance of the Illinois  
11 Disabilities Services Advisory Committee and the Secretary of  
12 Human Services, is responsible for the completion of the  
13 implementation plan. The Governor must submit a report to the  
14 General Assembly by November 1, 2004, which must include the  
15 following:

16 (1) The implementation plan.

17 (2) A description of current and planned programs  
18 and services necessary to meet the requirements of the  
19 individual service or treatment plans required by this  
20 Act, together with the actions to be taken by the State  
21 of Illinois to ensure that those plans will be  
22 implemented. This description shall include a report of  
23 related program and service improvements or expansions  
24 implemented by the Department since the effective date of  
25 this Act.

26 (3) The estimated costs of current and planned  
27 programs and services to be provided under the  
28 implementation plan.

29 (4) A report on the number of persons with  
30 disabilities who may be eligible to receive services  
31 under this Act, together with a report on the number of  
32 persons who are currently receiving those services.

33 (5) Any proposed changes in State policies, laws,  
34 or regulations necessary to fulfill the purposes and

1 requirements of this Act.

2 (d) The Governor, with the assistance of the Secretary  
3 of Human Services, shall annually update the implementation  
4 plan and report changes to the General Assembly by July 1 of  
5 each year. Initial implementation of the plan is required by  
6 July 1, 2005. The requirement of annual updates and reports  
7 expires in 2008, unless otherwise extended by the General  
8 Assembly.

9 Section 25. Appropriations. Services shall be provided  
10 under this Act to the extent that appropriations are made  
11 available by the General Assembly for the programs and  
12 services indicated in the implementation plan.

13 Section 30. Entitlements. This Act does not create any  
14 new entitlement to a service, program, or benefit, but shall  
15 not be construed to affect any entitlement to a service,  
16 program, or benefit created by any other law.

17 (405 ILCS 80/1-1 rep.)

18 (405 ILCS 80/1-2 rep.)

19 (405 ILCS 80/1-3 rep.)

20 (405 ILCS 80/1-4 rep.)

21 (405 ILCS 80/1-5 rep.)

22 Section 90. The Developmental Disability and Mental  
23 Disability Services Act is amended by repealing Sections 1-1,  
24 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities  
25 Services Law).

26 Section 99. Effective date. This Act takes effect upon  
27 becoming law.